

Appln No. 10/812,500

Reply to Office Communication of July 13, 2005

REMARKS/ARGUMENTS

The Office Communication dated July 13, 2005, asserting a Rule 105 Requirement for Information, has been reviewed and the requirements carefully considered. Applicant responds to the Requirement to the best of his knowledge as follows:

- (A) "THE 2004 SUNTORY COLLECTION" was published in April 2003 by Jackson & Perkins Wholesale, Inc. (Medford OH, USA). This catalog is the first publication in the world by which 'Sunmaribagadi' was introduced.
- (B) There are no publications or advertisements relating to sales, offers for sale, or public distributions of the claimed plant variety anywhere in the world more than one year prior to the filing date of this application.
- (C) There is no public information available regarding sales, offers for sale, or public distributions of the claimed plant variety anywhere in the world that occurred more than one year prior to the filing date of this application.
- (D) There is no information relating to the accessibility of the claimed plant that one of ordinary skill in the art could have derived from the printed documents. The only information disclosed in the catalog "THE 2004 SUNTORY COLLECTION" is a close-up picture of the plant, the trade name 'Temari' and the name of the flower color 'Burgundy'.
- (E) The first application for Plant Breeder's Rights was filed at the Canadian Patent Office on February 27, 2004. The publication by the Canadian Patent Office does not include information regarding reproduction of the plant. Further, there is no information regarding reproduction of the plant in any catalog including, "THE 2004 SUNTORY COLLECTION".
- (F) The first time when the plant was asexually reproduced was in October 2002.

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(G) There was no commercial offer for sale more than one year prior to the filing date of this application.

In view of the foregoing, it is believed that the application is in condition for allowance and, accordingly, reconsideration and allowance is earnestly solicited.

If any questions remain regarding the allowability of the application, Applicant would appreciate if the Examiner would advise the undersigned by telephone.

The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,
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CAB/tt